

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

CMFG LIFE INSURANCE COMPANY,
CUMIS INSURANCE SOCIETY, INC., AND
MEMBERS LIFE INSURANCE COMPANY,

Plaintiffs,

vs.

RBS SECURITIES, INC.,

Defendant.

Case No. 12-CV-00037-WMC

**STIPULATION FOR ENTRY OF JUDGMENT AS TO
THE REMAINING PORTION OF PLAINTIFFS' CLAIM AFTER
JULY 23, 2014 SUMMARY JUDGMENT ORDER**

Plaintiffs CMFG Life Insurance Company, CUMIS Insurance Society, Inc., and Members Life Insurance Company ("CUNA Mutual") and Defendant RBS Securities, Inc. ("RBS") file the instant stipulation for entry of judgment as to the remaining category of alleged misrepresentations in Plaintiffs' claim for rescission after this Court issued its July 23, 2014 Order (ECF No. 736) and aver in support thereof the following:

1. CUNA Mutual has one count remaining in its Second Amended Complaint seeking rescission of fifteen residential mortgage-backed securities ("RMBS") purchased from RBS. CUNA Mutual contends that this count originally sought rescission on four categories of misrepresentations: (1) underwriting guideline compliance; (2) owner-occupancy rates; (3) performance of due diligence; and (4) the loan-to-value ("LTV) and combined loan-to-value ("CLTV") ratios of the pools of mortgage loans that backed the RMBS purchased by CUNA

Mutual. RBS disagrees that CUNA Mutual asserted a claim premised on alleged misrepresentations regarding the performance of due diligence.

2. On July 23, 2014, the Court granted summary judgment to RBS, dismissing on various grounds CUNA Mutual's claims with respect to nine of the fifteen RMBS. (ECF No. 736 (the "Order").) As described more fully in the Order, the Court did not dismiss the portion of CUNA Mutual's claim for rescission based on purported misrepresentations regarding LTV and CLTV ratios for the pools of mortgage loans that backed six of the fifteen RMBS certificates: HVMLT 2005-15 B6, RALI 2006-QS3 M3 and M2, RBSGC 2005-A B2 and B3, and RBSGC 2007-A B2 (the "Remaining Portion of the Claim for Rescission"). (*Id.*)

3. CUNA Mutual wishes to obtain an immediate final judgment so that CUNA Mutual can promptly file a notice of appeal and seek review in the United States Court of Appeals for the Seventh Circuit of the various rulings against CUNA Mutual, including but not limited to, the Order.

4. CUNA Mutual wishes to preserve all appellate review rights concerning the Order and other rulings against CUNA Mutual.

5. To facilitate entry of a final judgment so that CUNA Mutual can immediately appeal, CUNA Mutual and RBS hereby stipulate to judgment in RBS's favor on the Remaining Portion of the Claim for Rescission. This stipulation moots RBS's potential remaining affirmative defenses, such as laches, and its argument of document spoliation. For clarity, the parties reach no such stipulation regarding those mooted defenses and arguments. Likewise, the parties agree that RBS may re-raise such motions and defenses in the event of a reversal on appeal, as well as assert any additional affirmative defenses. The parties further agree that CUNA Mutual reserves all arguments concerning those motions or defenses, including any arguments by CUNA Mutual that any additional affirmative defenses are untimely and have therefore been waived.

6. CUNA Mutual and RBS also agree that CUNA Mutual's pending request to call Dr. Cowan out of order at trial and RBS's Motion in Limine to Preclude Michael Klenov from Testifying at Trial should now be denied as moot.

7. All pending motions, issues, and claims having then been decided or mooted, CUNA Mutual and RBS hereby request the Court enter final judgment.

8. Each party shall bear its own costs and attorneys' fees for all litigation activity up through and including the date of this stipulation.

Dated: July 28, 2014

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